IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/664,275

First Named Inventor: Samuel Moreau

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Commissioner for Patents
P.O. Box 1450
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APPEAL BRIEF

Sir:

This Brief is submitted in support of this appeal, mailed December 7, 2006, and from a final decision of the Examiner, mailed July 3, 2006. Consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the above-captioned patent application is respectfully requested.

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I. REAL PARTY IN INTEREST

TVWorks (formerly MetaTV, Inc.), the assignee of the application at issue, is a wholly owned subsidiary of Double C Technologies, LLC, a joint venture between Comcast Communications and Cox Communications, the real parties in interest.

II. RELATED APPEALS AND INTERFERENCES

This application has not previously been the subject of an appeal or interference proceeding.

III. STATUS OF CLAIMS

Claims 1 - 23 are currently pending, have been finally rejected, and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

There are no currently pending amendments.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 states:

> 1. A user interface, comprising a service provider-defined blending of television program choices from which a viewer may select, the blending representing options for linear and non-linear programming presented together within a single hierarchy of a designated category.

The present invention provides, in various embodiments, systems and methods by which subscribers are presented with navigational interfaces that blend linear, non-linear, and (in some cases) managed content or information services and/or links to games together in a single screen, or single iTV application. In one embodiment, the user interface allows for blending of television program choices from which a viewer may select, the blending representing options for linear and non-linear programming presented together within a single hierarchy of a designated category. The blending may further include managed content relevant to the designated category, where desired. Such designated category may be a television programming category and/or a content category. The options for linear and non-linear programming are, in some embodiments, presented

together within a single screen of the user interface. (Applicants' Specification, Page 4, Paragraphs 0006 - 007).

Independent claim 6 states:

> 6. A user interface for interactive television (iTV), comprising a navigational hierarchy of service provider-defined blendings of linear and non-linear programming options, and information services in a single presentation.

In one embodiment, the invention provides a user interface that includes a navigational hierarchy that blends linear and non-linear programming options, and information services in a single presentation. The blend of programming choices may be presented as a set of all available programming options and/or a subset of all available programming options. The navigational hierarchy is, in some cases, presented in a single screen of information and the blending of information services with linear and non-linear programming information may be done at multiple levels of content categorization. The non-linear programming information may include information about programs recorded on a subscriber storage unit. The blending referred to above may be performed according to categories (e.g., content categories, content provider categories, etc.) of programming, and/or may span content delivery types and content categories. (Applicants' Specification, Page 4, Paragraph 008)

Independent claim 16 states:

> 16. A user interface, comprising a single screen having various regions thereof for displaying a service provider-defined blending of non-linear programming information, linear programming information and managed content relevant to the linear and non-linear programming information.

Still another embodiment provides a user interface which includes a single screen having various regions thereof for displaying non-linear programming information, linear programming information and managed content relevant to the linear and non-linear programming information or category. The linear and non-linear programming information are preferably within a common category (e.g., a content category or a content provider category).

The user interface may additionally include a scaled audio/video or background audio/video presentation area. A navigation control configured to allow scrolling through content offerings (e.g., channel families) provided by a common content provider may also be provided. In such cases, video information presented in the scaled or background video presentation area can be dependent upon scrolling via the navigation control. The navigation control may include a category descriptor. (Applicants' Specification, Page 4-5, Paragraphs 009 - 010)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-10 and 12-15 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent Application Publication 200510149972 to Knudson in view of U.S. Patent 5,657,072 to Aristides.

Claim 11 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent Application Publication 200510149972 to Knudson in view of U.S. Patent 5,657,072 to Aristides and U.S. Patent 6,219,839 to Sampsell.

Claims 16-23 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent Application Publication 200510149972 to Knudson in view of U.S. Patent 5,657,072 to Aristides and U.S. Patent 6,177,931 to Alexander.

VII. ARGUMENT

I. Claims 1 - 10 and 12 - 15 are patentable over Knudson in view of Aristides because the references fail to describe a user interface having a service provider-defined blending of television program choices as presently claimed.

Knudson, U.S. Patent Application Publication 2005/0149972 (hereinafter, "Knudson") describes an electronic program guide system that allows viewers to designate a set of "favorites", which may include linear and non-linear programming choices, and then view, browse and tune to any of the programming options from this filtered list. (see, e.g., Knudson's Figure 4, and the accompanying text cited by the Office Action). Such a system is, however, distinct from the user interface recited in the present claims. The claimed user interface provides a service provider-defined blending of linear and non-linear television program choices into categories or other groupings of content from which a viewer may select. Such a user interface is not taught by Knudson, hence,

the present claims are patentable over this reference. The Office Action acknowledges this fact. (Office Action page 3 line 1).

Adding the teachings of Aristides, U.S. Patent No. 5,657,072 (hereinafter, "Aristides") does not alter this conclusion. Aristides describes a system to reduce headend requests from EPG's during peak demand times by sending program data over to the set-top boxes during off-demand times. Thus, during peak time the EPG can use data from local storage rather than requesting records from the headend. (Aristides Column 3 lines 6-26). Aristides also describes a mechanism where a media server records broadcast TV programs and the EPG allows the user to scroll backwards from the current time to select and view a recorded, previously broadcast show. (Aristides Column 6 lines 21-33).

It is important to note that the recorded programs are made available from the regular channel listings of the EPG. (Aristides Fig 2). Stated differently, the EPG simply reflects the schedule of programs provided on the respective cable channels. While the listing may be regarded as being provided by a service provider, no blending is present in this program guide.

Thus, at best a combination of Aristides and Knudson might yield a system in which viewers designate favorite programs (both linear and non-linear) from an EPG that includes cable channel listings. Such a system would still not be one in which the blending of choices was a service provider-defined blending, as is presently claimed. Hence, the present claims are patentable over Knudson even in view of Aristides.

In the Advisory Action mailed January 25, 2007, the Examiner suggests that a service provider providing a user with the option to select favorites is equivalent to service-provider blending of programming. Applicants disagree. Applicants submit that a listing of user-selected favorites is not equivalent to a service-provider blending of programming, as is claimed.

II. Claim 11 is patentable over Knudson in view of Aristides even when considered in combination with Sampsell, because neither reference describes a user interface having a service provider-defined blending of television program choices as presently claimed.

Claim 11 depends from claims 6 and, therefore, is patentable over Knudson in view of Aristides for the reasons discussed above. Adding the teachings of Sampsell, U.S. Patent No. 6,219,839 (hereinafter, "Sampsell") does not alter this conclusion.

Sampsell describes a user interface and method to control the operation of multiple components in an audio/visual system. (Sampsell Column 1 Lines 8-10). An Electronic Resources Guide (ERG) capable of recognizing that a new A/V peripheral has been added to a network, learning how the peripheral is connected within the viewer's A/V system or network, integrating that information into a guide for the network, and then displaying that information so that the user may control and view the programming provided by the new peripheral much the same as a user may select to view broadcast programming displayed in an EPG is discussed. (Sampsell Column 2 Lines 19-27).

Assuming such capabilities were integrated with the system described by Knudson, at most one would be provided with an electronic program guide system that allows viewers to designate a set of "favorites", which may include linear and non-linear programming choices, and which also displayed information concerning how a peripheral is connected within the viewer's A/V system or network. Such a guide would still not include a service provider-defined blending of television program choices from which a viewer may select, as presently claimed. Hence, claim 11 is patentable over this combination of references.

III. Claims 16-23 are patentable over Knudson in view of Aristides, even when considered in combination with Alexander, because neither reference describes a user interface having a service provider-defined blending of information as presently claimed.

Claim 16 recites the service-provider defined nature of the blending discussed above and, therefore, is patentable over Knudson in view of Aristides for all of the same

reasons as claims 1 and 6. Combining the teachings of Alexander, U.S. Patent No. 6,177,931 (hereinafter, "Alexander") does not alter this conclusion.

Alexander describes an EPG which allows a user to select an icon associated with a program option and thereby connect to an Internet website to learn more about the program. (Alexander Column 18 Lines 1-54, Figure 8). However, this managed content is not available on the same screen as the programming choices. Hence, combining these teachings with those of Knudson would, at most, lead to a system in which users would be provided with an electronic program guide system that allows viewers to designate a set of "favorites", which may include linear and non-linear programming choices, and which also allow the user to visit an Internet site to learn more about a programming option.

This is distinctly different from the presently claimed user interface, which includes a single screen having various regions for displaying a service provider-defined blending of non-linear programming information, linear programming information and managed content relevant to the linear and non-linear programming information. Consequently, claim 16 and its dependent claims are patentable over this combination of references.

For at least the foregoing reasons, the claims are patentable over the references cited in the Office Action. If there are any additional fees due in connection with this communication, please charge our deposit account no. 19-3140.

Respectfully submitted,
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APPENDIX A: Claims on Appeal

(37 C.F.R. § 41.37(c)(1)(viii))

The claims on appeal read as follows:

1. (Previously Presented) A user interface, comprising a service provider-defined blending of television program choices from which a viewer may select, the blending representing options for linear and non-linear programming presented together within a single hierarchy of a designated category.

2. (Original) The user interface of claim 1, wherein the blending further includes managed content relevant to the designated category.

3. (Original) The user interface of claim 1, wherein the designated category comprises a television programming or content category.

4. (Original) The user interface of claim 1, wherein the designated category comprises a network channel, channel family or programmer brand category.

5. (Original) The user interface of claim 1, wherein the options for linear and non-linear programming are presented together within a single screen of the user interface.

6. (Previously Presented) A user interface for interactive television (iTV), comprising a navigational hierarchy of service provider-defined blendings of linear and non-linear programming options, and information services in a single presentation.

7. (Original) The user interface of claim 6, wherein the blend of programming choices is presented as a set of all available programming options

8. (Original) The user interface of claim 6, wherein the blend of programming options is presented as a subset of all available programming options.

9. (Original) The user interface of claim 6, wherein the navigational hierarchy is presented in a single screen of information.

10. (Original) The user interface of claim 6, wherein the blending of information services with linear and non-linear programming information is done at multiple levels of content categorization.

11. (Original) The user interface of claim 6, wherein the non-linear programming information includes information about programs recorded on a subscriber storage unit.

12. (Original) The user interface of claim 6, wherein the blending is performed according to categories of programming.

13. (Original) The user interface of claim 6, wherein the categories comprise content categories.

14. (Original) The user interface of claim 6, wherein the blending spans content delivery types and content categories.

15. (Original) The user interface of claim 6, wherein the categories comprise content provider categories.

16. (Previously Presented) A user interface, comprising a single screen having various regions thereof for displaying a service provider-defined blending of non-linear programming information, linear programming information and managed content relevant to the linear and non-linear programming information.

17. (Original) The user interface of claim 16, wherein the linear and non-linear programming information are within a common content category.

18. (Original) The user interface of claim 16, wherein the linear and non-linear programming information are within a common content provider category.

19. (Original) The user interface of claim 16, further including a scaled video presentation area.

20. (Original) The user interface of claim 19, further including a navigation control configured to allow scrolling through content offerings provided by a common content provider.

21. (Original) The user interface of claim 20, wherein video information presented in the scaled video presentation area is dependent upon scrolling via the navigation control.

22. (Original) The user interface of claim 20, wherein the navigation control includes a category descriptor.

23. (Original) The user interface of claim 20, wherein the content offerings comprise a family of television channels.

APPENDIX B: Other Evidence

(37 C.F.R. § 41.37(c)(1)(ix))

There is no evidence submitted under 37 CFR 1.130, 1.131 or 1.132, or other evidence entered by the examiner and relied upon by the appellant in this appeal.

APPENDIX C: Related Proceedings

(37 C.F.R. § 41.37(c)(1)(x))

Not applicable